(1)

Supreme Court, U.S.
FILED

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No. _____

In The

Supreme Court of the United States

October Term, 1996

FRED DAVIS,

Petitioner,

v.

WONDERLAND GREYHOUND PARK, INC.
A SUBSIDIARY OF THE WESTWOOD GROUP
JAMES E. DALTON, DIRECTOR OF MUTUELS, ET AL,

Respondents.

Petition For Writ Of Certiorari
To The First Circuit Court Of Appeals

PETITION FOR WRIT OF CERTIORARI

FRED DAVIS
P.O. BOX 721
EVERETT, MA 02149
(617) 322-8223

43 pp

ISSUES PRESENTED

I.

Should this court grant certiorari to resolve the issues of due process of law and equal protection of the law as set forth in the United States Constitution amendent XIV, when the court would not entertain petitioner's Motion Compelling Defendants For Production of Documents and Plaintiff's Motion Compelling the Taking of defendant James E. Dalton's Deposition.

II.

Amendment XIV All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States: nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

III.

Should attorneys be allowed to harass and argue with individuals who are being deposed, causing them to become ill and seek emergency medical help.

VI.

Was the dismissing of the petitioner's action appropriate based on the facts and evidence presented to the court.

V.

The public interest is involved.

TABLE OF CONTENTS

	Page
OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL PROVISIONS INVOLVED....	2
STATEMENT OF THE CASE.....	3
REASONS FOR GRANTING THE PETITION.....	6
I. CERTIORARI SHOULD BE GRANTED TO PROTECT THE PETITIONER'S CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW AND EQUAL PROTECTION OF THE LAW.....	6
II. THE UNITED STATES CONSTITUTION FOURTEENTH AMENDMENT MUST BE PROTECTED.....	6
III. FEDERAL RULES OF CIVIL PROCEDURE RULE 30(d)(3) GRANTS THE TERMINATION OF A DEPOSITION.....	6
IV. THE DISMISSING OF THE PETITIONER'S ACTION WAS NOT APPROPRIATE BASED ON THE FACTS AND EVIDENCE.....	7
V. THE PUBLIC INTEREST IS INVOLVED.	7
CONCLUSION.....	8

TABLE OF AUTHORITIES

case

Page

Estate of David Miller
Bristol County Probate
and Family Court
No. 89-P-1790-A1
(1996)..... 7

OTHER

United States Constitution
Fourteenth Amendment..... 6

Federal Rules of Civil Procedure
Rule 30(d)(3)..... 6

Federal Rules of Civil Procedure
Rule 32..... 5

Petitioner, Fred Davis, respectfully prays that a writ of certiorari issue to review decision of the United States First District Court and grant the order that respondent Wonderland Greyhound Park, Inc. a subsidiary of the Westwood Group pay the petitioner the sum of $400,000.00 (four hundred thousand) dollars plus interest, legal fees, court costs. Respondent James E. Dalton pay the petitioner the sum of $400.000.00 (four hundred thousand) dollars plus interest and punitive damages in the sum of $900,000.00 (nine hundred thousand) dollars.

Petitioner to be reinstated to his job with all back pay, or as an alternative remand action to the Court for trial by jury and other relief the Court deems appropriate.

OPINIONS BELOW

The lower Court's ruling was for the respondents and is attached Appendix F.

The Appeals Court decision was in favor of the respondents, and is attached Appendix G.

JURISDICTION

August 27, 1996, the United States Court of Appeals for the First Circuit decision was for the respondents. This petition is filed within 90 days of the United States Court of Appeals for the First Circuit's decision.

This Court's jurisdiction is invoked under 28 United States Code.

CONSTITUTIONAL PROVISIONS INVOLVED

The Fourteen Amendment to the United States Constitution provides:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States: nor shall any State deprive any person of life, liberty, or property without due process of law: nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

The petitioner, Fred Davis, was employed with the respondents for approximately twenty-seven years.

The respondents knowingly and wilfully discriminated against the petitioner because of his age and religion when he was denied promotions. Promotions were given to employees younger than the petitioner and not of the same religion as the petitioner.

The respondents knowingly and wilfully discriminated against the petitioner because of his age and religion when he worked four days and received no pay. All employees were paid for all hours that they worked except the petitioner.

February 23, 1995, petitioner files his Complaint of Discrimination in the United States District Court for the District of Massachusetts.

Neither respondent Wonderland Greyhound Park Inc., nor James E. Dalton answered the petitioner's Complaint.

Petitioner files Motion For Judgment against respondents for failure to answer petitioner's Complaint. Court denied petitioner's Motion For judgment.

Petitioner forwards his "Plaintiff's Request For Production Of Documents to respondents attorney Stephen Reed and is attached Appendix A.

Respondents only furnish one document and that document was one Absence Report which is completely black and is illegible and is attached Appendix B.

Petitioner files with the Court Plaintiff's Motion Compelling Defendants For Production of Documents and is attached Appendix B.

Respondents do not comply with Petitioner's Motion and the Court does not entertain petition's Motion Compelling Defendants For Production of Documents, therefore, petitioner does not obtain any documents from the respondents except for one illegible document.

Petitioner serves upon both respondent James E. Dalton and respondents attorney Notice Of Taking Deposition of James E. Dalton and is attached Appendix C.

Respondent James E. Dalton does not appear for the taking of his deposition.

Petitioner filed with the Court Plaintiff's Motion Compelling The Taking of Defendant James E. Dalton's Depostion and is attached Appendix D.

Respondent James E. Dalton does not appear for the taking of his deposition and the Court here again, does not entertain petitoner's Motion Compelling the Taking of respondent James E. Dalton's deposition.

James E. Dalton's deposition is not taken.

The petitioner. Fred Davis appeared at the office of Stephen Reed to have his deposition taken, after the petitioner was sworn in he made

the following statement which he wanted to be part of the record:

> "Pursuant to Federal Rules of Civil Procedure 32: I made a diligent search to obtain counsel to represent me, therefore, since I was unable to obtain counsel this deposition can not be used against me."

Mr. Reed told the reporter to take it off the record and said that the petitioner's deposition was going to be used against him.

Mr. Reed continued to argue with the petitioner. The petitioner told him that he could not stand his oppressive behavior and his misconduct was making him ill, and if anything should happen to him Mr. Reed would be fully liable. Mr. Reed understood that he was making the petitioner ill and is attached Appendix E.

Mr. Reed continued his oppressive behavior which resulted in petitioner becoming ill and was compelled to leave. Petitioner had to have someone drive him for emergency medical help and is attached Appendix H

Petitioner's health provider told him that it would be harmful to his health if he would go again for a deposition.

Petitioner files with the court his Motion and Memorandum Terminating Further Taking of Plaintiff's Deposition and Sanctions Against Stephen Reed. Court denies this motion.

Petitioner files an Interlocutory Appeal, before the Court can act on this appeal the lower court dismisses the petitioner's action.

The petitioner appealed the lower Court's decision to the Appeals Court and now the issues are before this Court.

REASONS FOR GRANTING THE PETITION

1. CERTIORARI SHOULD BE GRANTED TO PROTECT THE PETITIONER'S CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW AND EQUAL PROTECTION OF THE LAW

Fourteenth Amendment to the United States Constitution; provides that the petitioner had a right to obtain documents and had the right to depose respondent James E. Dalton.

However, this was not the case.

II. THE UNITED STATES CONSTITUTION FOURTEENTH AMENDMENT MUST BE PROTECTED

Due process of law and equal protection of law is a fundamental, constitutional guarantee that all legal proceedings are to be fair.

Therefore, the United States Constitution must be protected.

III. FEDERAL RULES OF CIVIL PROCEDURE RULE 30(d)(3) GRANTS THE TERMINATION OF A DEPOSITION

Mr. Reed: conducted a deposition in bad faith. The taking of one's deposition does not warrant the making an individual ill and being rushed for emergency medical help.

Medical evidence was submit to the Court the document was a legal document which included the physician's name and address and telephone number, his license number and was signed by him.

Physician advised the petitioner not to go for another deposition.

IV. THE DISMISSING OF THE PETITIONER'S ACTION WAS NOT APPROPRIATE BASED ON THE FACTS AND EVIDENCE

The respondents did not produce documents to the petitioner and James E. Dalton did not have his deposition taken and no action was taken against the respondents.

Furthermore, dismissing the action because individual does not appear for a deposition is not a criteria to dismiss the action. In, Estate OF David Miller Bristol County Probate & Family Court No. 89-P-1790-A1, two attorneys for different parties in the action filed Motions To Dismiss the Action because the plaintiff wilfully refused to have her deposition taken and refused to answer interrogatories completely, however, the court did not dismiss the action nor was the plaintiff ordered to appear for her deposition nor was the plaintiff ordered to answer interrogatories.

V. THE PUBLIC INTEREST IS INVOLVED

The public interest is involved as Courts must uphold the United States Constitution.

Is discovery only going to be given to the defendants in legal actions which will be used as a precedent or will courts use the criteria that discovery is not necessary?

Therefore, since the public interest is involved, it deems necessary that this honorable court resolve these issues.

CONCLUSION

WHEREFORE, Petitioner Fred Davis respectfully prays that this Honorable Court grant this petition and issue a writ of certiorari to re-review the facts as set forth in the foregoing and grant the order that the petitioner be paid the sum of $800,000.00 (eight hundred thousand) dollars, Punitive damages in the sum of $900,000. (nine hundred thousand) dollars.

Petitioner to be reinstated to his job with back pay, or as an alternative remand action to the Court for trial by jury and any other relief the Court deems appropriate.

Respectfully submitted,

Fred Davis
P.O. Box 721
Everett, Ma 02149
(617) 322-8223

APPENDIX A

App. 1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FRED DAVIS, PLAINTIFF

VS. Civil Action No. 95-10391DPW

WONDERLAND GREYHOUND PARK, INC.
A SUBSIDIARY OF THE WESTWOOD GROUP
JAMES E. DALTON, DIRECTOR OF MUTUELS, ET AL.,
DEFENDANTS

PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS

Now comes the plaintiff, Fred Davis, in the above-cited action and requests Wonderland Greyhound Park, Inc., their attorney Stephen Reed and the law firm Kearns & Rubin to produce all documents.

1. Wonderland Greyhound Park Inc., their attorney and the law firm of Kearns & Rubin to produce all documents, papers, correspondence, records, notes telephone conversation, first aid records, attendance records, job titles held by the plaintiff dates of these job titles held by the plaintiff, and salaries in those positions etc., pertaining to the plaintiff.

2. Wonderland Greyhound Park, Inc., their attorney and the law firm of Kearns & Rubin to produce all documents, papers, correspondence, records, notes, telephone conversations, etc., that all above-cited parties have in their files/ possession including all documents, papers, corr-

espondence. records, notes, telephone conversations, etc., that were given to other parties pertaining to the plaintiff.

3. Wonderland Greyhound Park, Inc., their attorney and the law firm of Kearns & Rubin to produce all documents, papers, correspondence, records, notes, telephone conversations, etc., that all above-cited parties had and obtained from other individuals, including companies, agencies firms, doctors, hospitals etc., pertaining to the plaintiff.

4. Please list all these documents on a master list.

By,

S/Fred Davis
P.O. Box 721
Everet. Ma 02149

APPENDIX B

App. 3

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FRED DAVIS, PLAINTIFF

vs. Civil Action No. 95-10391DPW

WONDERLAND GREYHOUND PARK, INC.
A SUBSIDIARY OF THE WESTWOOD GROUP
JAMES E. DALTON, DIRECTOR OF MUTUELS, ET AL,
DEFENDANTS

PLAINTIFF'S MOTION COMPELLING DEFENDANTS
FOR PRODUCTION OF DOCUMENTS

Now comes the plaintiff, Fred Davis in the above-cited action and moves the court to compel the defendants to produce documents that was requested by the plaintiff.

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION
COMPELLING DEFENDANTS FOR
PRODUCTION OF DOCUMENTS

The plaintiff served upon the defendants the following requests for documents:

1. Wonderland Greyhound Park, Inc., their attorney and the law firm of Kearns & Rubin to produce all documents, papers, correspondence, records, notes, telephone conversations, first aid records, attendance records, job titles held by the plaintiff, dates of these job titles held by the plaintiff, and salaries in those positions, etc., pertaining to the plaintiff.

The defendants did not supply the plaintiff

with all above-cited documents. The defendants furnished the plaintiff with only one absence illegible report. (Plaintiff's Exhibit A affixed hereto).

2. Wonderland Greyhound Park, Inc., their attorney and the law firm of Kearns & Rubin to produce all documents, papers, correspondence, records, notes, telephone conversations, etc., that all above-cited parties have in their files/possession including all documents, papers, correspondence, records, notes, telephone conversations, etc., that were given to other parties pertaining to the plaintiff.

The defendants did not furnish these documents to the plaintiff.

3. Wonderland Greyhound Park, Inc., their attorney and the law firm of Kearns & Rubin to produce all documents, papers, correspondence, records, notes, telephone conversations etc., that all above-cited parties had and obtained from other individuals, including companies, agencies, firms, doctors, hospitals etc., pertaining to the plaintiff.

The defendants did not furnish these documents to the plaintiff.

4. Please list all these documents on a master list.

The defendants refused to list the few documents on a master list.

It is the plaintiff's understanding that all documents are to be listed on a master list.

The defendants are obstructing justice and failing to comply with the discovery procedure as set forth in the Rules of Civil Procedure.

Therefore, based on the following facts and evidence the plaintiff moves the court to compel the defendants to produce documents that he has requested.

By,
S/ Fred Davis
P.O. Box 721
Everett, Ma 02149

ABSENCE REPORT

DOCUMENT IS COMPLETELY BLACK AND IS ILLEGIBLE.

PLAINTIFF'S EXHIBIT A

APPENDIX C

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
Civil Action 95-10391DPW

FRED DAVIS, PLAINTIFF

vs.

WONDERLAND GREYHOUND PARK, INC.
A SUBSIDIARY OF THE WESTWOOD GROUP
JAMES E. DALTON, DIRECTOR OF MUTUEL, ET AL,
DEFENDANTS

TO: James E. Dalton, Director of Mutuels
190 VFW Parkway
Revere, Ma 02151

NOTICE OF TAKING DEPOSITION

Please take notice that at 10:15 A.M. On Friday September 8, 1995, at the office of Doris M. Jones Associates, Inc. 59 Temple Place Boston, Massachusetts the plaintiff in the above action, will take the deposition upon oral examination of James E. Dalton pursuant to Rule 30 of the Federal Rules of Civil Procedure, before a Notary Public in and for the Commonwealth of Massachusetts, or before some other officer authorized to administer oaths.

The oral examination will continue from day to day until completed.

In addition you are to bring the plaintiff's personnel file and all documents that you are to use at time of trial.

The plaintiff will reproduce these docu-

ments.

By,
S/ Fred Davis
P.O. Box 721
Everett, Ma 02149

APPENDIX D

App. 9

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FRED DAVIS, PLAINTIFF

vs. CIVIL ACTION NO. 95-10391
DPW

WONDERLAND GREYHOUND PARK, INC.
A SUBSIDIARY OF THE Westwood Group
JAMES E. DALTON, DIRECTOR OF MUTUELS, ET AL,
DEFENDANTS

PLAINTIFF'S MOTION COMPELLING THE TAKING OF DEFENDANT JAMES E. DALTON'S DEPOSITION

Now comes the plaintiff, Fred Davis, in the above-cited action and moves the court to compel the defendant to be deposed.

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION COMPELLING THE TAKING OF DEFENDANT JAMES E. DALTON'S DEPOSITION

The defendant, James E. Dalton was duly notified to appear to have his deposition, however, he failed to appear.

Therefore, the plaintiff, Fred Davis, moves the court to compel the defendant James E. Dalton to have his deposition taken as soon as possible.

By,
S/Fred Davis
P.O. Box 721
Everett, Ma 02149

APPENDIX E

(Off the record.)

MR. REED: Back on the record.

THE WITNESS: The other issue I'd like to discuss with you, this is the issue.

You're fully aware that you aggravated me?

MR. REED: No, sir, I'm not. I'm not badgering you, I'm not harassing you.

THE WITNESS: You're arguing with me on the statute, and you're aggravating me, and if anything ensues as the result of your wilful misconduct, you're going to be fully liable for it.

MR. REED: Fine.

THE WITNESS: I'm giving you ample warning.

MR. REED: Fine.

THE WITNESS: If anything should happen to me, you're going to be fully

liable.

MR. REED: I understand.

APPENDIX F

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FRED DAVIS, Plaintiff	)	
	)	CIVIL ACTION NO.
	)	95-10391-DPW
v.	)	
	)	
WONDERLAND GREYHOUND PARK, INC. and JAMES E. DALTON, Defendants.	)	

MEMORANDUM AND ORDER
April 11, 1996

The plaintiff in this case alleging termination of employment on the basis of employment discrimination is proceeding pro se. He has exhibited a sustained unwillingness to permit the defendants to conduct discovery by deposing him, even after being forewarned on more than one occasion that his failure to cooperate in making himself available for a deposition would result in dismissal of his complaint. The plaintiff's obdurate refusal to permit the completion of his deposition following repeated warnings by the court of the likely adverse consequences can be sanctioned properly by nothing short of allowance of the defendants' Renewed Motion To Dismiss Plaintiff's Complaint.1

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1 The defendants ground their Renewed Motion as they did their initial Motion To Dismiss on Fed. R. Civ. P. 37(b)(2)(C). I note in addition that plaintiff's refusal to provide discovery as

It was apparent at the initial scheduling conference in this matter on June 27, 1995 that plaintiff would resist appearing for his deposition. I specifically set June 30, 1995 as the date plaintiff was to appear for the deposition and warned that if he failed to appear it could be grounds for dismissal. I also instructed the parties regarding the procedures for that deposition.

The plaintiff did appear on June 30 but refused to continue after the lunch break and left the office in which his testimony was being taken. On July 10 he moved to terminate the taking of the deposition, alleging misconduct by defendant's attorney. After reviewing the deposition transcript, I denied the plaintiff's motion and allowed a cross motion by defendants to compel plaintiff to testify. Again I warned that a failure to comply could result in dismissal.

Plaintiff, however, continued to decline to appear for the completion of his deposition on the rescheduled date of September 29, 1995. Plaintiff thereupon moved to dismiss pursuant to Fed. R. Civ. P. 37(b)(2)(C).

1.directed in scheduling the pre-trial orders also implicated Fed. R. Civ. P. 16(f) and the Court's Local Rule 1.3.

At a status conference in this matter thereafter, I again advised the plaintiff that his complaint would be dismissed if he did not if he did not appear for the remainder of his deposition within 14 days of the conference. He remained resistant and offered a conclusory doctor's note to justify his refusal. I told him this was not satisfactory to justify his failure to participate in discovery. I once again informed him that if he did not thereafter appear for the conclusion of his deposition, the case would be dismissed.

Shortly after the status conference, defendants filed their Renewed Motion To Dismiss.2 For his part, plaintiff filed an opposition to defendants' motion to dismiss asserting inter alia, that he had an interlocutory appeal pending, that defendants had not provided discovery he sought, that defendants were attempting to harass and hurt him; that the intitial deposition had compelled him to seek emergency medical help; and that his doctor advised him not to appear again for a deposition. None of these reasons is sufficient to justify denying defendants motion here.

An unperfected and frivolous interlocutory appeal cannot act to stay orderly discovery---

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2I act upon the Renewed Motion To Dismiss to make plain that I have taken into consideration the entire course of plaintiff's conduct

indeed I had earlier denied a stay in connection with the purported appeal. Similarly, the claim of inadequate discovery by defendants cannot be permitted to distract attention from plaintiff's repeated refusal to follow court directions.

More importantly, the plaintiff's claims of harm or medical difficulty are unsubstantiated. Apart from plaintiff's assertions, they are crystallized in a handwritten note on a pre-printed prescription form from the office of Dr. John G. Goulding of Malden reading:

> Rx To Whom It May Concern
> Mr. Fred Davis has been under my Care for chronic anxiety. I feel that the ordeal of a deposition would be harmful to his health.

Attachment A to Plaintiff's Opposition to Defendants' Renewed Motion To Dismiss Plaintiff's Complaint.

This unsworn document of questionable and unauthenticated provenance does not begin to establish a medical justification for plaintiff's refusal to appear. No doubt doctors are busy professionals, but observations scrawled on prescription pads do not rise to the dignity of reasoned explication of a medical opinion deserving of credit in legal proceedings, particularly after a party has been informed such

---

2in this litigation.

proffers are insufficient.

Quite telling is the text of plaintiff's initial deposition in which the plaintiff made clear his dissatisfaction with having to respond to those who disagree with him.

Plaintiff observed in colloquy with defense counsel:

> You're arguing with me on the statute, and you're aggravating me, and if anything ensues as the result of your wilful misconduct, you're going to be fully liable for it.....
>
> I am a senior citizen and I'm under a doctor's care, and you're fully aware of it, and I've had to go over with you here and taking my time citing the statute to you.

June 30, 1995 Tr. 22-23

It is no doubt unpleasant to be put to the task of justifying one's contentions, whether regarding the merits of a law suit or medical basis for relief from the obligations of discovery in litigation. But it is necessary for litigation to proceed on an orderly basis. Plaintiff refuses to shoulder the burden but rather objects to the process when it requires him to do something he finds "aggravating." Having initiated the process, however, he is obligated to comply with court orders or face the consequences warned of by the court.

The plaintiff's refusal to appear for the

conclusion of his deposition is a transgression of all the pertinent considerations brought into play when a trial court is called upon to exercise its "broad authority to enforce pre-trial discipline and to dismiss a case for failure to obey pre-trial orders". Robson v. Hallenbeck, ____F. 3d____, ____, slip op. 4, (1st Cir. Nos. 95-1595 & 95-1983, Apr. 3, 1996). It is a severe violation of the rules governing pre-trial discovery in civil litigation. The excuse offered is conclusory and unsbstantiated. The plaintiff has deliberately repeated this violation despite numerous court directions. The refusal of the plaintiff to permit examination of his claims is fundamentally prejudicial to the defendants and to the adversary operations of the judicial system. The plaintiff has been warned repeatedly that the sanction of dismissal can follow up this course of litigation conduct. It is apparent that no other sanction can vindicate the interests in an orderly and disciplined pre-trial process. Cf Chuang Investments v. Eagle Inns. Inc. ___F.3d ___(1st Cir. No. 95-1981 Apr. 9. 1996).

Accordingly, defendants' motion to dismiss is hereby ALLOWED and the clerk is directed to dismiss the case with prejudice. I decline, however, to award fees and costs to defendants, who are sufficiently benefited by prevailing on the merits of this action.

S/ Douglas P. Woodlock
United States District Judge

APPENDIX G

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 96-1604

Fred Davis, Plaintiff, Appellant

v.

Wonderland Greyhound Park, Inc., et al,
Defendants, Appellees

Appeal From United States District Court for the District of Massachusetts
(Hon. Douglas P. Woodlock, U.S. District Judge

Before: Torruellat, Chief Judge
Cyr and Stahl Ciercuit Judges

August 27, 1996

Per Curiam Having reviewed the entire record, including the transcript of the June 30, 1995 truncated deposition at which plaintiff claims he was harassed, we summarily affirm the dismissal of plaintiff's action for the reasons stated in the district court's April 11, 1996 memorandum and order. Plaintiff was not unfairly treated at the deposition and plaintiff was afforded multiple opportunities to complete the deposition. When plaintiff failed without any adequately documented justification to appear for the rescheduled deposition, the court did not abuse its discretion in dismissing plaintiff's action.

Affirmed. Loc R 27.1

APPENDIX H

AFFIDAVIT OF GERTRUDE GOROD

I, Gertrude Gorod, being first duly sworn and say:

1. June 30, 1995, I was present at the law offices of Kearns & Rubin 60 State Boston, Massachusetts during the taking of the plaintiff, Fred Davis' deposition.

2. The plaintiff's deposition was conducted by attorney Stephen Reed.

3. Stephen Reed's conduct was despicable. He conducted the deposition as a German Gestapo.

4. His conduct also violated the Canon Rules.

5. He continuously argued with the plaintiff and would not let him put any thing on the record when he requested it to be part of the record.

6. The plaintiff warned him that he was under the doctor's care, all the more Mr. Reed conducted himself as a German Gestapo, also being oppressive and harassing the plaintiff.

7. The plaintiff took ill and told Mr. Reed to reschedule the deposition. Mr. Reed said, "no we are going to be here all night".

8. Mr. Reed misconduct caused the plaintiff to become ill.

9. The plaintiff was ill and Scott remained with him and I got the car and drove him for medical help.

10. I have read the foregoing and swear that it

is true to the best of my knowledge and belief.

S/ Gertrude Gorod

Dated: 7/10/95

On this 10th day of July, 1995, Gertrude Gorod personally appeared before me and being by me first duly sworn, did make oath and say that the matter set forth in the foregoing Affidavit is true to her own knowledge and belief.

S/

Notary Public
My Commission expires:
11-16-01